

**COMMONWEALTH OF MASSACHUSETTS
BEFORE THE
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

Petition of Massachusetts Electric Company)	
and Nantucket Electric Company for approval to)	
maintain the current standard offer service)	D.T.E. 03-123
fuel adjustment and approval of)	
“Now is the Time to Choose” program.)	

**PRELIMINARY COMMENTS OF
TRANSCANADA POWER MARKETING, LTD.**

Pursuant to the November 25, 2003 Notice issued by the Department of Telecommunications and Energy (“Department”) seeking comments upon a proposal filed by Massachusetts Electric Company and Nantucket Electric Company (“collectively, “Mass. Electric”) designated as the *Now is the Time to Choose* program, and the subsequent notice of Mass. Electric asking the Department to defer a ruling on the *Now is the Time to Choose* program, TransCanada Power Marketing, Ltd. (“TransCanada”) hereby submits these limited comments. TransCanada reserves the rights to supplement these comments when and if Mass. Electric files an amended program or clarifies that it intends to proceed with the *Now is the Time to Choose* program as originally proposed.

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On October 30, 2003, Mass. Electric filed with the Department a proposal to authorize Mass. Electric to: (i) maintain the currently approved Standard Offer Service Fuel Adjustment (“SOSFA”) surcharge of 1.424¢ per kilowatt-hour through the remainder of the Standard Offer Service period; (ii) approve a new program Mass. Electric has designated as the *Now Is the Time to Choose* program; and (iii) find that the *Now Is the Time to Choose* program is consistent with the restructuring settlement and wholesale Standard Offer Service contracts that Mass. Electric executed and the Department approved in Docket No. D.P.U./D.T.E. 96-25. Although Mass.

Electric's October 30, 2003 filing did not explain the details of how Mass. Electric intends to implement the *Now is the Time to Choose* program, it was clear from the filing that a critical element of the program would have entailed Mass. Electric working with alternative suppliers to induce retail customers to terminate their purchases of retail Standard Offer Service. Thus, the *Now is the Time to Choose* program appeared to be Mass. Electric's formalization of a proposal to engage in a "Joint Marketing Program" it previously had described to suppliers. As part of its October 30, 2003 filing, Mass. Electric chose to file a letter sent to it by TransCanada in which TransCanada expressed concern with that "Joint Marketing Program."

TransCanada wishes to make clear to the Department the reasons for TransCanada's opposition to the "Joint Marketing Program." TransCanada has not, and does not now, object to Mass. Electric providing customers with information related to deregulation, restructuring, or Standard Offer Service. In fact, TransCanada has been an active participant in every one of Mass. Electric's Energy Market Seminars, as well as similar events held by NSTAR, Fitchburg Gas and Electric, and Western Massachusetts Electric.

However, the "Joint Marketing Program," as described by Mass. Electric in a meeting it held with potential suppliers, and in the Presentation Materials that were distributed at that meeting, did not provide a guaranty of customer benefits. To the contrary, the manner in which the "Joint Marketing Program" was proposed may have exposed end-use customers to significant risks concerning supplier availability and the ultimate prices at which supplies would have been delivered.

Additionally, if Mass. Electric had implemented the "Joint Marketing Program," it would have breached its wholesale Standard Offer Service agreement with TransCanada by

depreciating the value of that agreement in violation, *inter alia*, of Mass. Electric's covenant of good faith and fair dealing.

TransCanada has met with Mass. Electric to discuss these concerns. As a result of that meeting, and apparently meetings with other suppliers of wholesale Standard Offer Service, Mass. Electric has asked the Department to defer ruling on the *Now is the Time to Choose* program. TransCanada understands that the reason for that requested deferral is to give Mass. Electric the opportunity to take the suppliers' views into consideration and determine whether there can be a better way of assuring customer benefits, while at the same time protecting the contract rights of suppliers like TransCanada that have provided wholesale Standard Offer Service since its inception in 1998. TransCanada looks forward to working with Mass. Electric in this endeavor and will provide comments upon a new Mass. Electric proposal at such time as Mass. Electric may file such a proposal with the Department.

Respectfully submitted,

TRANSCANADA POWER MARKETING, LTD.

By its attorneys,

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Dated: December 12, 2003

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was this day served by first-class mail, postage prepaid, to Thomas G. Robinson and Amy G. Rabinowitz, Massachusetts Electric Company, 25 Research Drive, Westborough, MA 01582-0099.

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Frederick S. Frei

Dated: December 12, 2003